

**HOFFMAN POLLAND & FURMAN PLLC**

Attorneys At Law  
220 EAST 42<sup>nd</sup> STREET, SUITE 435  
NEW YORK, NEW YORK 10017  
(212) 338-0700  
FAX (212) 338-0093  
[www.HPF-law.com](http://www.HPF-law.com)

October 21, 2010

**Via ECF with Courtesy Copy to Chambers**

Honorable Sandra L. Townes  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: Allstate Insurance Company v. Etienne et al  
Docket #: 1:09-cv-03582-SLT –RLM

Dear Judge Townes:

On June 21, 2010, on behalf of our clients defendants Viviane Etienne, Viviane Etienne Medical Care, P.C, Jamaica Dedicated Medical Care, P.C., and V.E. Medical Care, P.C., (“the Etienne Parties”), we filed a fully briefed motion to dismiss Plaintiff’s Complaint on several grounds explained therein. The primary ground is that the alleged pattern of racketeering as alleged in the Complaint is no different than the purported enterprise.

Since that filing, at least two additional district court opinions have been published in which the court dismissed plaintiffs’ complaint on these same grounds: Greenberg v. Blake, No. 09 Civ. 4347(BMC), 2010 U.S. Dist. LEXIS 57617, 2010 WL 2400064, at 6 (E.D.N.Y. June 10, 2010) and Freund v. Lerner 09 CV 7117 (HB), 2010 U.S. Dist. LEXIS 82549 (S.D.N.Y. 2010).

In those cases, as in the present case, the putative RICO case was found to be “nothing more than an ordinary fraud case clothed in the Emperor’s trendy garb” Freund v. Lerner, *supra*, quoting Nasik Breeding & Research Farm Ltd. v. Merck & Co., 165 F. Supp. 2d 514, 537 (S.D.N.Y. 2001).

In view of the continued pendency of our motion, we felt compelled to bring these cases to your Honor’s attention.

Respectfully submitted,



Mark L. Furman (MF 4456)

cc: all attorneys via ECF